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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,452	02/20/2004	Fred Lawrence Heldoorn	41660-P001US	7783
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CHALKER FLORES, LLP 2711 LBJ FRWY Suite 1036 DALLAS, TX 75234			EXAMINER NGUYEN, PHU HOANG	
			ART UNIT 1731	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/783,452

Applicant(s)

HELDOORN, FRED LAWRENCE

Examiner

Phu H. Nguyen

Art Unit

1731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Objections***

The disclosure is objected to because of the following informalities: The amended Specification, amended Claims and amended Drawings state that they are intended for Application No. 10/062736 instead of Application No. 10783452.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 8 recites the limitation "wherein the means for holding" in the first line of the instant claim 8. There is insufficient antecedent basis for this limitation in the claim. For purpose of examination the examiner assumes "wherein the means for holding" means "further comprising means for holding".

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 11-12 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Dorey et al. (GB 2126211 A).

Regarding claims 1 and 11, Dorey discloses a takeout holder (1, fig. 1) formed of thermosetting resin (corresponding to the claimed "plastic" recites in the instant claim 1) comprises:

a semi-circular base having a front edge and rear edge (reference sign 3, fig. 1);

a pocket (3, fig. 1) within the semi-circular base formed by a bottom wall, a side wall and a top wall that extends between the front edge and the rear edge; and

a fitting (4, fig. 1) (corresponding to the claimed "yoke" recites in the instant claim 1) that extends generally perpendicularly from the semi-circular base, where in the takeout holder comprises a plastic.

Regarding claims 2 and 14, Dorey also discloses the jaw member (corresponding to the claimed "semi-circular nonmetallic insert" recites in the instant claim 2) comprises a bottom wall and a top wall that extends between a front insert edge and a rear insert edge (5, fig. 1).

Regarding claim 12, in addition to the limitations discussed above for claim 1, Dorey also discloses the tong may also be formed as a unitary structure (corresponding to the claimed "molded" recites in the instant claim 12) from the thermoset composite (page 2, line 46-47).

Claims 17-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Kume et al. (JP 04160065 A). Kume discloses a ceramic insert wherein the ceramic includes alumina and a releasing agent in the Abstract.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dorey et al. (GB 2126211 A) as applied to claim 2 above, and further in view of Lloyd et al. (U.S. Patent No. 5741343). Dorey discloses that material such as ceramic can be used to make the insert since it has a low thermal conductivity and a low thermal capacity; however brittle ceramic is not preferred since chipped ceramic jaw member eventually renders the take out incapable of performing its function of picking up bottles. Lloyd et al. (U.S. Patent No. 5741343) discloses a solution for the brittleness of graphite by providing pads composed of a relatively high strength ceramic and having tongue-in-groove and/or roughened glass-contact surfaces (line 46-49, column 2). Therefore, it would have been obvious to one of ordinary skill in the art to use available high strength ceramic as taught by Lloyd to make the insert.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dorey et al. (GB 2126211 A) and Lloyd et al. (U.S. Patent No. 5741343) as applied to claim 3 above, and further in view of Oberlin (U.S. Patent No. 3473938). Although the combination of Dorey and Lloyd does not expressly disclose the ceramic composed in part of alumina, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include alumina as evidence by Oberlin. Oberlin discloses

an alumina containing thin walled refractory structure of high strength and thermal shock resistance (column 1, line 53-55).

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dorey et al. (GB 2126211 A) and Lloyd et al. (U.S Patent No. 5741343) as applied to claim 3 above, and further in view of Nishikawa et al. (U.S Patent No. 4900807).

Regarding claim 5, Nishikawa discloses compositions that made up the material including a releasing agent, alumina and clay that have excellent high temperature strength (line 8-36, column 10) which provide another choice of material that is has excellent high temperature strength for one of ordinary skill in the art to construct the insert.

Regarding claim 6, Dorey discloses the semi-circular nonmetallic insert is fitted (as shown by projected dotted lines) into a recess (fig. 1).

Claims 7,8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dorey et al. (GB 2126211 A) and Lloyd et al. (U.S Patent No. 5741343) as applied to claim 3 above, further in view of Denney et al. (U.S Patent No. Re. 34953). Dorey discloses means for holding the insert in engagement with the takeout jaw comprises oval pins (8, fig. 1), through holes (9, fig. 1) and blind holes (10, fig.1). In an alternative means for holding, Denney also discloses means for holding the insert in engagement with the takeout jaw; means for holding comprising a spring clip (58, fig. 3) (corresponding to the claimed "détente" recites in the instant claim 9) for holding the insert within the pocket of the takeout jaw (line 4-51, column 5). Denney further

discloses an opening in the side wall of the pocket to mate to a corresponding tap on the semi circular insert (as shown on fig. 2 from reference sign 50 to reference sign 40).

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dorey et al. (GB 2126211 A), Lloyd et al. (U.S Patent No. 5741343) and Denney et al. (U.S Patent No. Re. 34953) as applied to claim 7 above, further in view of Recker et al. (U.S Patent No. 6523768). The combination of Dorey, Lloyd and Denney does not disclose wedging effect between the insert and the holder. Recker discloses the wedge-lock tool insert system that each insert cannot be removed from its pocket without first releasing the wedge lock of its holder (line 26-53, column 5). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to take advantage of the wedging effect to lock the insert into the slot defined by the takeout jaw.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dorey et al. (GB 2126211 A) as applied to claim 12 above in view of Mohler et al. (U.S Patent No. 6805832). Dorey discloses synthetic polymers such as coal tar pitch or polyacrylonitrile can be use as the plastic material for the take out jaw (page 2, line 2-4). Mohler discloses a thermite torch cutting nozzle that is fabricated from a material selected from the group consisting of mineral/phenolic and high temperature plastic. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to select the high temperature plastic alternatively as taught by Mohler.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kume et al. (JP 04160065 A) as applied to claim 17 above, in view of Filges et al. (U.S Patent 6517597). Kume discloses a ceramic insert but did not disclose the ceramic is glazed. Filges discloses the surface of the ceramic composition has a coating with a very low porosity, in particular a glaze, a glazing for its protection (line 51-54, column 2). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to protect the ceramic with a glaze.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments with respect to claims 17-19 have been fully considered but they are not persuasive. Kume discloses all the limitations recite in the instant claims 17-19 that include an insert comprised of ceramic includes alumina and a releasing agent.

In response to applicant's argument that Filges et al. (U.S Patent No. 6517597) is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Filges discloses for protection of a ceramic, the surface of the ceramic has a coating with very low porosity, in particular a glaze, a glazing.



rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Filges discloses for protection of a ceramic, the surface of the ceramic has a coating with very low porosity, in particular a glaze, a glazing. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to protect the ceramic by glazing it.

### **Conclusion**

Lang (U.S. Pub. No. 20060230789) discloses a takeout jaw for handling glass bottles includes a holder for both fixed and floating inserts. This design allows an insert to be in a fixed position when the insert is provided with a nominal thickness. When a floating insert of a lesser thickness is installed, the spring clip does not engage the floating insert, which allows the floating insert to move vertically or float. The takeout holder contains either type of insert within the pocket with retaining clips that engage chamfers formed on the inserts (Abstract). This reference made of record and not relied upon is considered pertinent to applicant's disclosure.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bode et al. (U.S. Patent No. 4865897) discloses rigid molded tong inserts for take-out tong members for handling hot glass articles and the like immediately following their molding. The inserts are utilized in pairs being heat and wear-resistant with exposed metallic working surfaces substantially surrounded by molded thermoset hardened heat-cured insulating plastic material. The inserts have essentially flat parallel surfaces with a metallic reinforcing member integrally molded therewithin, the

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metallic reinforcing member having a semi-circular shaped exposed working surface adapted to directly contacting the finish area of the hot glass articles and a diametrically-disposed exposed flanged working surface adapted to non-wearing support within a retaining metallic take-out tong member. The inserts are long-wearing durable members which do not damage the contacted hot glass surface, the metallic exposed working surface being maintained at a relatively uniform, non-checking elevated temperature by the surrounding insulating plastic material. The inserts are adapted to floating self-centering retention or rigid mounting with the wear points being metal for long life under very adverse operating conditions (Abstract).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phu H. Nguyen whose telephone number is 571-272-5931. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

P.N 5/25/2007

  
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